

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MISSOURI  
SOUTHEASTERN DIVISION**

DARNELL WESLY MOON,

Plaintiff,

v.

NED BOYD, et al.,

Defendants.

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No. 1:17-cv-125-SNLJ

**MEMORANDUM AND ORDER**

This matter is before the Court on plaintiff's motion for leave to proceed in forma pauperis on appeal. (Docket No. 19). The motion will be denied, and plaintiff will be directed to pay the \$505.00 filing fee.

Plaintiff may not proceed in forma pauperis on appeal because he has accumulated more than three "strikes" pursuant to 28 U.S.C. § 1915(g). *See Moon v. United States of America*, Case No. 1:09-cv-6-RWS (E.D. Mo. Feb. 3, 2009); *Moon v. National Asset Recovery Services, Inc.*, Case No. 4:09-cv-117-DDN (E.D. Mo. Feb. 2, 2009); and *Moon v. National Recovery Services, Inc.*, Case No. 4:09-cv-1129-DDN (E.D. Mo. Jul. 28, 2009). In the instant motion, plaintiff contends that he qualifies for the imminent danger exception to § 1915(g). In support, he avers that he alleged in his complaint that defendant Ned Boyd, a United States Marshal, "had plaintiff placed in a pod that he knew plaintiff had enemies in, because plaintiff had just gotten into a fight with several inmates in I Pod." (Docket No. 19, Attch. 1, p. 1). However, these were not plaintiff's allegations in the complaint. In the complaint, plaintiff alleged that Boyd directed that plaintiff be placed in I Pod, but that when plaintiff refused, he "was placed in the drunk tank for a day, and then moved into cell #130." (Docket No. 1 at 13). Therefore, based upon the

allegations in the complaint, plaintiff was not in fact placed in a pod in which he had enemies. Plaintiff does not qualify for the imminent danger exception to § 1915(g), and the Court will therefore order him to pay the full \$505.00 statutory filing fee.

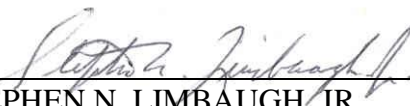
Accordingly,

**IT IS HEREBY ORDERED** that plaintiff's motion to proceed in forma pauperis on appeal (Docket No. 19) is **DENIED**.

**IT IS FURTHER ORDERED** that, within thirty (30) days from the date of this Order, plaintiff shall pay to this Court the full \$505.00 statutory filing fee. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison registration number; (3) the case number; and (4) that the remittance is for the appeal of the instant action.

**IT IS FURTHER ORDERED** that plaintiff shall file any future document or pleadings in connection with this appeal directly with the United States Court of Appeals for the Eighth Circuit.

Dated this 13<sup>th</sup> day of December, 2017.

  
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STEPHEN N. LIMBAUGH, JR.  
UNITED STATES DISTRICT JUDGE